

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1810V

* * * * *

THERESA GRILLO, * Special Master Katherine E. Oler
Petitioner, *
v. *
SECRETARY OF HEALTH AND * Filed: August 4, 2023
HUMAN SERVICES, * Reissued for Public Availability:
Respondent. * September 1, 2023

* * * * *

Theresa Grillo, Deerfield Beach, FL, pro se
Julia Collison, U.S. Department of Justice, Washington, DC, for Respondent

DECISION DISMISSING PETITION¹

I. Procedural History

On December 8, 2022, Theresa Grillo (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program,² alleging developed a demyelinating disease from the tetanus-diphtheria-acellular pertussis (“Tdap”) vaccination she received on November 13, 2019. Pet. at 1, ECF No. 1.

On December 22, 2022, I held a status conference with the parties to discuss how this case would proceed. *See* Scheduling Order dated 12/22/2022, ECF No. 12. Petitioner informed me she was speaking with a firm and I granted her time to file a status report on her efforts to secure legal representation. *See id.*

On February 21, 2023, Petitioner emailed my law clerk requesting additional time to search for legal representation; I granted that request. *See* Scheduling Order dated 2/22/2023, ECF No. 13.

¹ Pursuant to Vaccine Rule 18(b), this decision was initially filed on August 4, 2023, and the parties were afforded 14 days to propose redactions. The parties did not propose any redactions. Accordingly, this decision is reissued in its original form for posting on the Court’s website.

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

On April 27, 2023, Petitioner called my chambers and informed me she was unable to retain legal representation and did not wish to proceed *pro se*. See Informal Communication Remark dated 4/27/2023. My law clerk emailed Petitioner the Court's website link for sample filings to assist Petitioner in dismissing her case.

On May 9 and 23, 2023, my law clerk followed up with Petitioner via email. On May 30, 2023, my law clerk called Petitioner who indicated she believed she had already dismissed her case but would file a motion to dismiss shortly. See Informal Communication Remark dated 5/30/2023.

On May 31, 2023, Petitioner mailed a paper copy of her motion to dismiss after unsuccessfully attempting to file it electronically. It was received by the Clerk's Office on June 12, 2023 but not entered into the docket because the motion had the wrong case number.

On August 3, 2023, the Clerk's Office issued a deficiency memo. On the same day, I issued an order directing the Clerk of Court to file Petitioner's motion. ECF No. 14.

Petitioner's motion states:

An investigation of the facts and science supporting [her] case has demonstrated to petitioner that [she] will be unable to prove that [she] is entitled to compensation in the Vaccine Program. In these circumstances, to proceed further would be unreasonable and would waste the resources of the Court, the respondent, and the Vaccine Program. Petitioner understands that a decision by the Special Master dismissing [her] petition will result in a judgment against [her]. [She] has been advised that such a judgment will end all of [her] rights in the Vaccine Program.

ECF No. 15 at 1.

II. Conclusion

Vaccine Rule 21(b)(1) provides that a "special master or the court may dismiss a petition or any claim therein for failure of the petitioner to prosecute or comply with these rules or any order of the special master or the court." Petitioner has indicated that she does not intend to pursue the claims made in her petition and that she prefers that the petition be dismissed.

As such, **IT IS ORDERED THAT,**

Petitioner's motion for a decision dismissing her petition is **GRANTED** and the petition is hereby **DISMISSED**. The Clerk shall enter judgment accordingly.³

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

If Petitioner wishes to preserve her right to file a civil action in this case, she must file an election in writing with the Clerk of Court indicating her intent to file a civil action for damages within 90 days after entry of judgment. *See* Vaccine Rule 12(a).

A copy of this Decision shall be sent to Petitioner by email to teegrillo@comcast.net.

IT IS SO ORDERED.

s/ Katherine E. Oler
Katherine E. Oler
Special Master